

REMARKS

Specification and Drawings

The Office Action objected to Figures 3-5, 7, and 8 because these original Figures included color elements. Four black-and-white drawing sheets with amended Figures 3-5, 7, and 8 are attached to this paper. Specification has been amended to point out that different shading patterns in the amended Figures represent different colors. We respectfully submit that no new matter is present in the amended drawings; rather, the amended drawings render in black-and-white matter that previously appeared in color. The objection to the drawings is believed have been obviated by submission of the amended drawings.

Claim Status

Claims 1, 2, 4, 7-11, 13, 17, 18, 20, 23-27, 29, 33-35, 37, 41, 45-47, 49, 53, 81-83, 85, 88, 89, 91, 95-97, 99, 102, 103, 105, 109, 110, 112-118, 120-128, 130-135, 137-141, 143-147, and 149-155 are pending in the application. This paper amends claims 1, 4, 9, 17, 20, 25, 33, 37, 45, 49, 81, 85, 95, 99, 109, 112, 113, 116, 117, 120, 121, 124, 125, 131, 132, 137-139, 143, 144, and 149-154. This paper further cancels claims 3, 19, 36, 48, 84, 98, 111, 119, 129, 136, 142, and 148 without prejudice or disclaimer; and adds new claim 155. Claims 5, 6, 12, 14-16, 21, 22, 28, 30-32, 38-40, 42-44, 50-52, 54-80, 86, 87, 90, 92-94, 100, 101, 104, and 106-108 have been previously withdrawn.

Art Rejections

Independent claim 1 has been amended to recite a limitation of displaying at each terminal a game accessory that both indicates the outcome and identifies the player who inputted the instruction. Support for this limitation can be found, for example, at paragraphs [0033] and [0034] of the application. We respectfully submit that this limitation is not taught or suggested by the prior art of record. Independent claims 17, 33, 45, 81, 95, 109, 117, 125, 132, 139, 145, and 151-154 have been amended in a manner similar to that of claim 1, and should be patentable for the same reason.

Furthermore, we have previously argued that Online MONOPOLY® does not indicate where or how the signal representing an outcome is generated, or where it is transmitted. In contrast, independent claims 1, 17, 33, 45, 81, and 95 all recite (and recited prior to the above amendment) that the signal is determined “at said one terminal,” *i.e.*, at the player’s terminal, and not at the game server; independent claims 109, 117, 125, 132, 139, and 145 similarly recite that the signal is determined “at said one wireless telephone.” The Final Office Action responds to this argument by pointing out that “[t]he Online MONOPOLY® software resides on a game player’s personal computer, therefore, the signal is determined (or at least initiated) at a player’s personal computer, rather than at a central server.” This statement apparently recognizes that Online MONOPOLY® does not specifically teach where the signal is determined. Indeed, merely having software on the player’s computer does not indicate that the software performs the determination. Initiating the process of signal determination at the terminal does not necessarily require that the signal is determined at the player’s terminal. The step of initiating or requesting the determination is different from the step of actually performing the determination.

At least for these reasons, all independent claims are believed to be patentable over the references of record.

We have also argued that certain dependent claims are patentable because they recite (1) the use of LEDs, (2) dual tone multi-frequency (DTMF) signaling to transmit game outcome information, or (3) the limitations such as “at least one of the terminals is a wireless telephone.” Regarding the LED limitation, the Final Office Action states that the “function of the LED’s and the graphics on the display screen is the same . . . to represent each player’s game token in a different color.” Note, however, that functional equivalence is not the same as obviousness. “In order to rely on equivalence as a rationale supporting an obviousness rejection, the equivalency must be recognized in the prior art, and cannot be based on applicant’s disclosure or the mere fact that the components at issue are functional or mechanical equivalents.” MPEP § 2144.06 (citing *In re Ruff*, 256 F.2d 590, 118 U.S.P.Q. 340 (C.C.P.A. 1958)). It is well settled that the standard applicable to the determination of obviousness is whether the claimed matter would have been obvious to a person skilled in the art at the time of the invention. Existence of functional and mechanical equivalents simply does not force the conclusion that the subject matter as a whole would have been obvious. *E.g., In re Flint*, 330 F.2d 363, 367-68, 141 U.S.P.Q. 299 (C.C.P.A. 1964).

Regarding the DTMF limitation, we traversed the rejections because, we believe, DTMF signaling is not used to transmit game outcome signals via modem connections. In response, the Final Office Action points out that DTMF is used in the prior art to connect to the telephone company central office. Dialing a number, however, is not the same as transmitting a game outcome signal using DTMF. We once again note that if the Examiner believes that the fact that DTMF is used to transmit a game outcome signal is capable of "instant and unquestionable demonstration as

being well-known” in the art, the Examiner “must provide documentary evidence . . . if the rejection is to be maintained.” MPEP § 2144.03(A) & (C).

With respect to the wireless telephone limitation, the Final Office Action points to Eck *et al.*, U.S. Patent Publication No. 2002/0045484 (“Eck”), the Abstract and paragraphs 19 and 106 as teaching the limitation of transmitting a game signal over the wireless link. The issue, however, is whether Eck teaches transmitting the signal representing said outcome over the wireless link. See claims 13, 29, 41, 53, 91, & 105. We respectfully submit that Eck does not teach this limitation. Instead, Eck teaches wirelessly distributing games from a server to computing devices. See, for example, Eck, the Abstract (“A video game distribution network . . . distributes special purpose game binary image files”); Eck, paragraph 8 (“the invention relates to the use of a generic computing network for downloading video game platform emulators and associated video games for interpretation by such emulators”); Eck, paragraph 19 (“Mobile cellular telephones . . . perform a variety of downloaded applications”). Eck does not teach establishing wireless links between communication terminals and transmitting a game outcome signal over the wireless links.

The above discussion addresses patentability of all independent claims and of several dependent claims of the application. The dependent claims not specifically discussed should be patentable together with their base claims and intervening claims, if any.

New claim 155 is believed to be patentable over the references of record because the references do not disclose or suggest a combination of steps as recited in the claim.

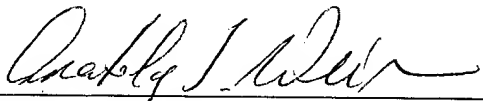
CONCLUSION

For the foregoing reasons, Applicant respectfully requests reconsideration and allowance of all claims.

To discuss any matter pertaining to the instant Application, the Examiner is invited to call the undersigned attorney at (858) 720-9431.

Respectfully submitted,

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